

REMARKS

Reconsideration of the subject application is requested in view of the following remarks.

Claims 1-7, 9-17, 21-28, and 30-36 are the subject of the Office action. In this paper, none of these claims is amended or canceled.

The Office action states that claims 1-36 are pending. In view of the fact that certain claims were canceled in earlier Responses, this statement is clearly an error, and correction is requested.

Claims 1, 11, 27, and 35 stand rejected under 35 U.S.C. §112, first paragraph, for alleged new matter added in the last Response. This rejection is traversed.

In reply, Applicant stands by his statements of support set forth in the Response of June 27, 2006, and refers the examiner to page 10, lines 6-18, and also to the following:

Claim 1: see again claim 21; page 5, line 13 to page 6, line 2; page 6, lines 8-18; page 7, lines 3-5. See also page 2, lines 7-8; page 3, lines 6-13; page 4, lines 16-17; page 7, lines 9-19; page 7, line 20 to page 8, line 11; page 8, lines 15-21. The reason for this rejection (and similar rejections of claims 11, 27, and 35) is not understood. For example, much of the language added to claim 1 was already in claim 21, almost verbatim, as already pointed out. The fact that the examiner made this rejection indicates that the examiner either did not read or did not understand the citations set forth in the Response of June 27, 2006. It is hoped that was not the case.

Claim 11: see all the citations given above for claim 1.

Claim 27: see all the citations given above for claim 1.

Claim 35: see again claims 2 and 12 and see all the citations given above for claim 1.

Claims 1-5, 7, 9, 11-15, 21-24, 26-28, and 30-36 stand rejected for alleged obviousness from Garceran in view of Hawkes. This rejection is traversed.

The Office action admits that "Garceran . . . does not specifically disclose using a first receiver and a second receiver, whereas [sic; wherein] the first receiver receives the communication signal and delivers the communication signal to a switch that forwards the call and obtaining [sic; obtains] location information of the mobile wireless device by analyzing the communication signal received by the second receiver." Applicant agrees. Applicant also stands by his comment in the previous Response that "Garceran does not disclose or suggest using first

and second receivers at the radio base station for performing the respective tasks recited in claim 1 as amended. Garceran also does not teach or suggest how or why a second receiver would be used, or how one would go about including a second receiver, especially one configured to perform the instantly claimed task." In other words, Garceran fails to teach or suggest at least the following:

- (a) including a second receiver at the radio base station,
- (b) using a second receiver at the radio base station,
- (c) how or why a second receiver would be included or used at the radio base station, and
- (d) analyzing a communication signal received by a second receiver to obtain location information of a mobile wireless device.

Therefore, Garceran does not provide any suggestion or motivation to the skilled person to seek out a reference such as Hawkes.

For the record, and contrary to the contention on the bottom of page 11 of the subject Office action, not all of Applicant's arguments in the previous Response are "moot." Specifically, since Garceran is cited again in the instant Office action against most of the same claims, Applicant's comments in the previous Response concerning this reference are not and cannot be "moot." Therefore, also for the record, the examiner is not at liberty to dismiss those arguments out of hand with only the comment that appears on page 12 of the Office action (more about this later below).

Hawkes does not satisfy these deficiencies of Garceran. First, as noted above, there is nothing in Garceran that would lead, suggest, or motivate the skilled person to seek out Hawkes to derive anything concerning a second receiver as instantly claimed. Second, Hawkes discusses determining location of a mobile phone, not performance of the wireless system. See, e.g., col. 1, lines 5-8, 48-49, 61-64; col. 2, lines 37-39; col. 3, lines 1-2, 14-17, 52-56. "Location" does not mean, and is a different parameter from, "performance," and without more than is provided by Hawkes, determining location does not yield a determination of system performance or a combination of location and system performance. Claim 1 requires a determination of location (by analyzing a communication signal received by the second receiver) and an evaluation of performance of the wireless system (using uplink performance parameters associated with said

communication signal received by the second receiver as well as the location information). Notwithstanding the comments on page 5 of the Office action, Hawkes does not contribute this combination of features to the disclosures of Garceran in any manner that would lead to claim 1, and does not provide the skilled person with any discernible reason for Hawkes to make such a contribution.

In view of the absence of any teaching or suggestion or motivation to combine Garceran and Hawkes to derive the combination recited in claim 1, as discussed above, the Office action appears to have chosen and picked, with hindsight based on Applicant's disclosure, various features from these two references in an effort to derive the instantly claimed combination. This is an improper basis for an obviousness rejection.

The Office action contends "it would have been obvious to one of ordinary skill in the art . . . to provide the technique of Hawkes to the system of Garceran in order to provide a robust and accurate cellular telephone location system that adapts under varying environmental conditions normally encountered in the cellular frequency bands by minimizing the amount and cost of location equipment and maximize the utilization of location assets. . . ." (Emphasis added.) In view of the repeated references to location, it is immediately apparent that this contention is not pertinent to determining system performance as instantly claimed.

In view of the foregoing, claim 1 is clearly allowable over any combination of Garceran and Hawkes.

In view of the allowability of claim 1, all claims (namely, claims 2-7, 9-10, and 30-33) depending from claim 1 are allowable for the same reasons as discussed above (and elsewhere in the record) regarding claim 1. Furthermore, each of these dependent claims adds at least one respective feature to the combination of features recited in claim 1, and hence is properly allowable in its own right over any combination of Garceran and Hawkes.

Since independent claim 11 is "interpreted and rejected for the same reason as set forth in claim 1," Applicant's discussion above regarding claim 1 is hereby applied to this rejection of claim 11, and claim 11 is properly allowable over any combination of Garceran and Hawkes for all the reasons discussed above pertaining to claim 1.

In view of the allowability of claim 11, all claims (namely 12-17) depending from claim 11 are allowable for the same reasons as discussed above (and elsewhere in the record) regarding claim 11. Furthermore, each of these dependent claims adds at least one respective feature to the

combination of features recited in claim 11, and hence is properly allowable in its own right over any combination of Garceran and Hawkes.

With respect to claim 21, much of the discussion above regarding claims 1 and 11 is applicable to this claim. For example, claim 21 requires a first receiver located at the radio base station which receives the communication signals and transmits the communication signals to a switch, and a second receiver located at the radio base station which monitors the communication signals and transmits timestamp data associated with the communication signals to the switch, wherein the timestamp data is associated with respective locations of the wireless devices. Claim 21 also requires a system analyzer, coupled to the switch, which evaluates the performance of the wireless system based on the respective uplink performance parameters and the respective locations of the wireless devices. As discussed above, this combination of features is not disclosed in or suggested in any combination of Garceran and Hawkes. Also, since Hawkes is concerned solely with determining location, no conceivable combination of Hawkes and Garceran discloses a system for monitoring performance (contrary to the contention in the Office action). Also, no conceivable combination (having a proper basis for combining them, not hindsight reconstruction) provides a system in which the communication signals comprise at least one uplink performance parameter. Furthermore, no conceivable combination (having a proper basis for combination, not hindsight reconstruction) provides a system in which the radio base station has first and second receivers that do what claim 21 states they do.

With respect to the system analyzer recited in claim 21, the Office action contends (page 8, line 8) that item 52 in Garceran is a system analyzer. This is incorrect. Item 52 is an "RF database or storage" (in other words, a memory). Col. 3, line 29. A memory is not a system analyzer, is not configured as a system analyzer, and does not function as a system analyzer. The Office action also contends (page 8, lines 8-9) that item 58 (MSC) and item 52 in Garceran perform system analysis. This is incorrect. Item 52 is a memory, as discussed above, and item 58 is a mobile switching center (MSC). Col. 1, lines 17-23; col. 3, line 28. Neither of these items, either alone or in combination, is understood to perform system analysis.

Incidentally, page 12 of the Office action contained a short paragraph in "reply" to the many pages of Applicant's arguments. The short paragraph pertained to claim 21, and stated, "the applicant presented the argument that the reference by Hawkes fails to teach that the receivers do not have separate tasks, thus not performing differently." Applicant takes strong

issue with this statement that was taken out of context and hence is inaccurate. In the Response of June 27, 2006, (see page 14 thereof), Applicant responded to the examiner's own citation (on page 8 of the Office action of February 27, 2006) of col. 11, lines 4-11 and 52-67 of Hawkes as allegedly disclosing receivers having different functions. In the Response of June 27, 2006, Applicant stated, "In the cited text of Hawkes (col. 11, lines 4-11 and 52-59), a base station can have multiple antennas, wherein each antenna covers a respective angular range of compass directions. Each said antenna can be connected to a respective receiver, but these receivers are identical and have identical functions. Therefore, Hawkes does not fulfill the deficiencies of Garceran." (Emphasis added.) Applicant stands by this argument and also states for the record that the examiner is not at liberty to pick and choose Applicant's statements out of context and use such bits to "justify" why Applicant's arguments are "not persuasive."

In any event, in view of the foregoing, claim 21 is clearly allowable over any combination of Garceran and Hawkes.

In view of the allowability of claim 21, all claims (namely 22 and 34) depending from claim 21 are allowable for the same reasons as discussed above (and elsewhere in the record) regarding claim 21. Furthermore, each of these dependent claims adds at least one respective feature to the combination of features recited in claim 21, and hence is properly allowable in its own right over any combination of Garceran and Hawkes.

Since claims 23, 24, and 27 are "interpreted and rejected for the same reason as set forth in claim 21," Applicant's discussion above regarding claim 21 is hereby applied to this rejection of claims 23, 24, and 27. Claims 23, 24 and 27 are properly allowable over any combination of Garceran and Hawkes for all the reasons discussed above pertaining to claim 21.

In view of the allowability of claim 24, all claims (namely 25 and 26) depending from claim 24 are allowable for the same reasons as discussed above (and elsewhere in the record) regarding claim 24. Furthermore, each of these dependent claims adds at least one respective feature to the combination of features recited in claim 24, and hence is properly allowable in its own right over any combination of Garceran and Hawkes.

Claim 35 is directed to a method having a substantial combination of features. For example, the method requires use of first and second receivers to collect downlink call data associated with a call to a mobile wireless device and to collect uplink call data associated with the call to the mobile wireless device. Garceran, as discussed above, provides no teaching,

suggestion, or motivation to provide these receivers. Garceran also does not lead, suggest, or motivate the skilled person to seek out a reference such as Hawkes, as discussed above. Furthermore, as discussed above, Hawkes is concerned only with determining location, not with evaluating system performance, and certainly not with determining system performance in the manner claimed.

In view of the foregoing, claim 35 is clearly allowable over any combination of Garceran and Hawkes.

In view of the allowability of claim 35, claim 36 depending from claim 35 is allowable for the same reasons as discussed above (and elsewhere in the record) regarding claim 35. Furthermore, this dependent claim adds at least one feature to the combination of features recited in claim 35, and hence is properly allowable in its own right over any combination of Garceran and Hawkes.

Claims 6, 10, 16, 20, and 25 stand rejected for alleged obviousness from Garceran in view of Hawkes and Kong. This rejection is traversed.

This rejection is moot with respect to claim 20, which is already canceled.

Claims 6 and 10 depend from independent claim 1 and are properly allowable over any combination of Garceran and Hawkes, as discussed above.

Claim 16 depends from independent claim 11 and is properly allowable over any combination of Garceran and Hawkes, as discussed above.

Claim 25 depends from independent claim 24 and is properly allowable over any combination of Garceran and Hawkes, as discussed above.

Applicant agrees with the admission in the Office action (sentence bridging pages 10 and 11) regarding claim 6 that "Garceran in view of Hawkes . . . does not specifically disclose that the time difference of arrival location processor is in the mobile wireless device." But, the alleged disclosure of Kong (page 11, lines 1-4 of the Office action) does not fulfill the deficiencies of any combination of Garceran and Hawkes. Furthermore, claim 6 depends from claim 1 and is properly allowable over Garceran and Hawkes for reasons as discussed above. Therefore, claim 6 is properly allowable over any combination of these three references.

Claim 10 also depends from claim 1 and is properly allowable over Garceran and Hawkes for reasons as discussed above. The alleged disclosure in Kong (RF fingerprinting) does not

fulfill the deficiencies of Garceran and Hawkes. Therefore, claim 10 is properly allowable over any combination of these three references.

Since claim 16 is "interpreted and rejected for the same reason as set forth in claim 6," in reply reference is made to the discussion above regarding claim 6.

Since claim 25 is "interpreted and rejected for the same reason as set forth in claim 10," in reply reference is made to the discussion above regarding claim 10.

Therefore, all the pending claims are in condition for allowance, and early action to such end is hereby requested.

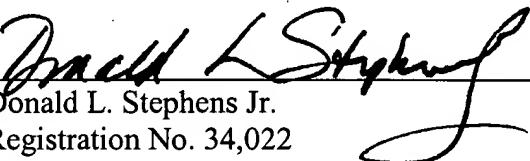
FOR THE THIRD TIME, APPLICANT REPEATS THE REQUEST TO THE EXAMINER TO CONTACT THE UNDERSIGNED IF ANY ISSUES REMAIN AFTER CONSIDERATION AND ENTRY OF THIS PAPER. APPLICANT HAS A RIGHT TO SUCH AN INTERVIEW AT THIS STAGE OF PROSECUTION.

Respectfully submitted,

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